

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RAPHAEL DWIGHT HUNDLEY,	:	CIVIL ACTION NO. 1:13-CV-0750
	:	
Plaintiff,	:	(Chief Judge Conner)
	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 15th day of April, 2014, upon consideration of the court's order (Doc. 28) adopting the report and recommendation of Magistrate Judge Thomas M. Blewitt (Doc. 27), denying *pro se* plaintiff's motion (Doc. 26) for an extension of time to file a motion for compassionate release or a reduction in sentence as both procedurally and administratively improper, see 18 U.S.C. § 3582(c) (outlining limited circumstances in which courts may modify a defendant's sentence), and granting defendants' motion (Doc. 10) for summary judgment and dismissing plaintiff's complaint (Doc. 1) on the merits for failure to exhaust his administrative remedies, see 42 U.S.C. § 1997e(a), and alternatively because certain of his claims are both time-barred, (see Doc. 27 at 14-15 (citing 28 U.S.C. § 2401(b) and finding that statute of limitations bars those of plaintiff's claims which accrued on or before April 21, 2010)) and procedurally-barred for failure to file a certificate of merit, (see id. at 16-21 (citing PA. R. Civ. P. 1042.3(a)(1))), and further upon consideration of plaintiff's newest filings, to include a motion (Doc. 29) for separate trial of counterclaim and advancement of the cause and his late-filed objection (Doc. 30) to the magistrate judge's report and recommendation filed on April 9, 2014, and the court

observing that nothing articulated in either document alters the court's conclusion that the *pro se* plaintiff has failed to exhaust his administrative remedies subjecting his claims to dismissal, see 42 U.S.C. 1997e(a) ("No action shall be brought with respect to prison conditions under . . . [42 U.S.C. § 1983] or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."), and the court thus concluding that the late-filed objections (Doc. 30) are meritless and affirming its order (Doc. 28) of March 31, 2014, it is hereby ORDERED that:

1. Plaintiff's objections (Doc. 30) to the report and recommendation are overruled.
2. Plaintiff's motion (Doc. 29) for separate trial of counterclaim and advancement of the cause is DENIED as moot.
3. This case remains CLOSED.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania